

Assembly Bill No. 2127

CHAPTER 749

An act to amend Section 4024.2 of the Penal Code, relating to work release.

[Approved by Governor September 29, 2012. Filed with
Secretary of State September 29, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2127, Carter. Work release.

Existing law authorizes the board of supervisors of any county to authorize the sheriff or other official in charge of county correctional facilities to offer a voluntary program under which any person committed to the facility may participate in a work release program in which one day of participation will be in lieu of one day of confinement. Existing law requires that the program be under the direction of a responsible person appointed by the sheriff or other official in charge and that the hours of labor to be performed be uniform for all persons committed to a facility in a county. Existing law authorizes the sheriff or other official to permit a participant in a work release program to receive work release credit for participation in education, vocational training, or substance abuse programs in lieu of performing labor in a work release program on an hour-for-hour basis, but limits credit for that participation to $\frac{1}{2}$ of the hours established for participation in a work release program, and requires that the remaining hours consist of manual labor, as specified.

This bill would instead authorize a sheriff or other official to permit a participant in a work release program to receive work release credit for documented participation in educational programs, vocational programs, substance abuse programs, life skills programs, or parenting programs. The bill would require that participation in these programs be considered in lieu of performing labor in a work release program on an hour-for-hour basis, with 8 work-related hours to equal to one day of custody credit, and would not limit the credit received for that participation nor require that the participant perform manual labor.

The people of the State of California do enact as follows:

SECTION 1. Section 4024.2 of the Penal Code is amended to read:

4024.2. (a) Notwithstanding any other law, the board of supervisors of any county may authorize the sheriff or other official in charge of county correctional facilities to offer a voluntary program under which any person committed to the facility may participate in a work release program pursuant

to criteria described in subdivision (b), in which one day of participation will be in lieu of one day of confinement.

(b) The criteria for a work release program are the following:

(1) The work release program shall consist of any of the following:

(A) Manual labor to improve or maintain levees or public facilities, including, but not limited to, streets, parks, and schools.

(B) Manual labor in support of nonprofit organizations, as approved by the sheriff or other official in charge of the correctional facilities. As a condition of assigning participants of a work release program to perform manual labor in support of nonprofit organizations pursuant to this section, the board of supervisors shall obtain workers' compensation insurance which shall be adequate to cover work-related injuries incurred by those participants, in accordance with Section 3363.5 of the Labor Code.

(C) Performance of graffiti cleanup for local governmental entities, including participation in a graffiti abatement program as defined in subdivision (f) of Section 594, as approved by the sheriff or other official in charge of the correctional facilities.

(D) Performance of weed and rubbish abatement on public and private property pursuant to Chapter 13 (commencing with Section 39501) of Division 3 of Title 4 of the Government Code, or Part 5 (commencing with Section 14875) or Part 6 (commencing with Section 14930) of Division 12 of the Health and Safety Code, as approved by the sheriff or other official in charge of the correctional facilities.

(E) Performance of house repairs or yard services for senior citizens and the performance of repairs to senior centers through contact with local senior service organizations, as approved by the sheriff or other official in charge of the correctional facilities. Where a work release participant has been assigned to this task, the sheriff or other official shall agree upon in advance with the senior service organization about the type of services to be rendered by the participant and the extent of contact permitted between the recipients of these services and the participant.

(F) Any person who is not able to perform manual labor as specified in this paragraph because of a medical condition, physical disability, or age, may participate in a work release program involving any other type of public sector work that is designated and approved by the sheriff or other official in charge of county correctional facilities.

(2) The sheriff or other official may permit a participant in a work release program to receive work release credit for documented participation in educational programs, vocational programs, substance abuse programs, life skills programs, or parenting programs. Participation in these programs shall be considered in lieu of performing labor in a work release program, with eight work-related hours to equal to one day of custody credit.

(3) The work release program shall be under the direction of a responsible person appointed by the sheriff or other official in charge.

(4) The hours of labor to be performed pursuant to this section shall be uniform for all persons committed to a facility in a county and may be determined by the sheriff or other official in charge of county correctional

facilities, and each day shall be a minimum of 8 and a maximum of 10 hours, in accordance with the normal working hours of county employees assigned to supervise the programs. However, reasonable accommodation may be made for participation in a program under paragraph (2).

As used in this section, “nonprofit organizations” means organizations established or operated for the benefit of the public or in support of a significant public interest, as set forth in Section 501(c)(3) of the Internal Revenue Code. Organizations established or operated for the primary purpose of benefiting their own memberships are specifically excluded.

(c) The board of supervisors may prescribe reasonable rules and regulations under which a work release program is operated and may provide that participants wear clothing of a distinctive character while performing the work. As a condition of participating in a work release program, a person shall give his or her promise to appear for work or assigned activity by signing a notice to appear before the sheriff or at the education, vocational, or substance abuse program at a time and place specified in the notice and shall sign an agreement that the sheriff may immediately retake the person into custody to serve the balance of his or her sentence if the person fails to appear for the program at the time and place agreed to, does not perform the work or activity assigned, or for any other reason is no longer a fit subject for release under this section. A copy of the notice shall be delivered to the person and a copy shall be retained by the sheriff. Any person who willfully violates his or her written promise to appear at the time and place specified in the notice is guilty of a misdemeanor.

Whenever a peace officer has reasonable cause to believe the person has failed to appear at the time and place specified in the notice or fails to appear or work at the time and place agreed to or has failed to perform the work assigned, the peace officer may, without a warrant, retake the person into custody, or the court may issue an arrest warrant for the retaking of the person into custody, to complete the remainder of the original sentence. A peace officer may not retake a person into custody under this subdivision, without a warrant for arrest, unless the officer has a written order to do so, signed by the sheriff or other person in charge of the program, that describes with particularity the person to be retaken.

(d) Nothing in this section shall be construed to require the sheriff or other official in charge to assign a person to a program pursuant to this section if it appears from the record that the person has refused to satisfactorily perform as assigned or has not satisfactorily complied with the reasonable rules and regulations governing the assignment or any other order of the court.

A person shall be eligible for work release under this section only if the sheriff or other official in charge concludes that the person is a fit subject therefor.

(e) The board of supervisors may prescribe a program administrative fee, not to exceed the pro rata cost of administration, to be paid by each person according to his or her ability to pay.